



I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 799476137 US, on the date shown below in an envelope addressed to: MS Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: September 8, 2006

Signature:

Judy Bridgewater
(Judy Bridgewater)

Docket No.: 511582002420
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Aya JAKOBOVITS et al.

Application No.: 10/001,469

Filed: October 31, 2001

For: NUCLEIC ACID AND CORRESPONDING
PROTEIN ENTITLED 101P3A11 USEFUL IN
TREATMENT AND DETECTION OF
CANCER

Confirmation No.: 3304

Art Unit: 1642

Examiner: M. T. Davis

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)

MS Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On behalf of the Applicants, the undersigned requests reconsideration of the patent term adjustment indicated in U.S. Application No. 10/001,469. This application for patent term adjustment is made in conjunction with the payment of the issue fee and is therefore timely under 37 CFR §. 1.705(b).

According to the Office's Initial Determination of Term Adjustment, the Applicants are not entitled to adjustment of patent term due to Applicants' delay during examination, as shown in the Patent Term Adjustment History (attached as Exhibit 1). Applicants respectfully request an extension of 38 days. Applicants' methodology for calculation of net adjustment credits (448 days)

and net adjustment debits (410) is presented in the Analysis Summary Report (attached as Exhibit 2).

Based on the above, Applicants respectfully request a patent term adjustment of 38 days.

Dated: September 8, 2006

Respectfully submitted,

By Kate H. Murashige

Kate H. Murashige

Registration No.: 29,959

MORRISON & FOERSTER LLP

12531 High Bluff Drive, Suite 100

San Diego, California 92130-2040

(858) 720-5112

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/001,469

Filing or 371(c) Date:	10-31-2001	USPTO Delay (PTO) Delay (days):	30
Issue Date of Patent:	null	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	212
Post-Issue Petitions (days):	+0	Total PTA (days):	0
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
06-08-2006	Mail Notice of Allowance	30	
06-06-2006	Notice of Allowance Data Verification Completed	↑	
06-06-2006	Case Docketed to Examiner in GAU	↑	
05-31-2006	Mail Examiner's Amendment	↑	
05-30-2006	Examiner's Amendment Communication	↑	
04-13-2004	Information Disclosure Statement considered	↑	
04-13-2004	Information Disclosure Statement (IDS) Filed	↑	
04-10-2006	Date Forwarded to Examiner	↑	
03-30-2006	Amendment/Argument after Notice of Appeal	↑	
04-06-2006	CRF Is Good Technically / Entered into Database	↑	
03-22-2006	Date Forwarded to Examiner	↑	
03-15-2006	Amendment/Argument after Notice of Appeal	↑	
01-30-2006	Petition Decision - Granted	↑	
01-26-2006	Date Forwarded to Examiner	↑	
01-09-2006	Appeal Brief Filed	↑	
01-09-2006	Request for Extension of Time - Granted		
08-12-2005	Petition Entered		
06-17-2005	Mail Advisory Action (PTOL - 303)		
06-16-2005	Advisory Action (PTOL-303)		
06-13-2005	Notice of Appeal Filed		89
06-13-2005	Request for Extension of Time - Granted		↑
02-23-2004	Substitute Specification Filed		↑
02-22-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		↑
03-01-2005	Date Forwarded to Examiner		↑
02-22-2005	Amendment after Final Rejection		↑
01-19-2005	Reference capture on IDS		↑
01-19-2005	Information Disclosure Statement (IDS) Filed		↑
12-16-2004	Mail Final Rejection (PTOL - 326)		↑
12-13-2004	Final Rejection		
10-06-2004	Date Forwarded to Examiner		
09-13-2004	Response after Non-Final Action		
04-09-2002	Information Disclosure Statement (IDS) Filed		

04-14-2004	Correspondence Address Change	
02-23-2004	New or Additional Drawing Filed	
04-09-2004	Date Forwarded to Examiner	
02-23-2004	Response after Non-Final Action	62
02-23-2004	Request for Extension of Time - Granted	↑
03-08-2004	CRF Is Good Technically / Entered into Database	↑
09-23-2003	Mail Miscellaneous Communication to Applicant	↑
09-22-2003	Miscellaneous Action with SSP	
08-15-2003	Correspondence Address Change	
08-04-2003	Date Forwarded to Examiner	
07-28-2003	Response to Election / Restriction Filed	
07-28-2003	Request for Extension of Time - Granted	
06-25-2003	Examiner Interview Summary Record (PTOL - 413)	
05-05-2003	Mail Restriction Requirement	
05-05-2003	Requirement for Restriction / Election	
03-04-2003	Date Forwarded to Examiner	
02-24-2003	Response to Election / Restriction Filed	
02-24-2003	Request for Extension of Time - Granted	
12-17-2002	Mail Restriction Requirement	
12-16-2002	Requirement for Restriction / Election	
08-16-2002	Preliminary Amendment	
08-12-2002	Case Docketed to Examiner in GAU	
07-09-2002	Application Dispatched from OIPE	
06-27-2002	Application Is Now Complete	
05-20-2002	Additional Application Filing Fees	61
05-20-2002	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in	↑
05-20-2002	An assertion that the nature of the legal entities having property rights to the patent authorizes t	↑
05-20-2002	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	↑
05-20-2002	Applicant has submitted new drawings to correct Corrected Papers problems	↑
06-07-2002	CRF Is Good Technically / Entered into Database	↑
12-20-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	↑
12-13-2001	IFW Scan & PACR Auto Security Review	
10-31-2001	Initial Exam Team nn	

[Close Window](#)

Analysis Summary Report

APPLICATION INFORMATION			
Docket Number:	511582002420	Analysis Generated:	09/08/2006 03:35:42 PM ET
Application Number:	10/001,469	User Name:	Waer, Kathryn
Filing Date:	10/31/2001	Firm/Company Name:	Morrison & Foerster, LLP
Title/Inventors:	NUCLEIC ACID AND CORRESPONDING PROTEIN ENTITLED 10IP3A41 USEFUL IN TREATMENT AND DETECTION OF CANCER; Aya Jakobovits, Beverly Hills, CA (US)		
		Attorney/Agent Comments:	

AIPA TERM ANALYSIS SUMMARY	
Earliest Referenced Application under 35 USC § 120, 121, or 365(c):	10 / 31 / 2001
Filing Date (US National Application):	10 / 31 / 2001
Net Adjustment Credits:	448 Days
Net Adjustment Debits:	410 Days
Net Patent Term Adjustment:	38 Days
AIPA Patent Term End Date:	12 / 08 / 2021 (1)
(1) Assumes payment of all maintenance fees and no intervening acts. Terminal disclaimer(s) filed in this case, if any, may reduce the term. Without adjustment, the term would end on 10/31/2021.	

RULE APPLICATION SUMMARY						
Event	Rule Invoked	Related Event	Excluded Days	Debit Days	Credit Days	
A 10/31/2001 Filing Date under 35 USC 111(a) (US National Application)	14-Month PTO First Action PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 in an international application. Period of adjustment (credits) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(i); 37 CFR 1.702(a)(1), 1.703(a)(1).	<i>First PTO Action:</i> 12/17/2002 Restriction / Election-of-Species	0	0	0	
B 10/31/2001 Filing Date under 35 USC 111(a) (US National Application)	3-Year PTO Issue of Patent PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application. Period of adjustment (credits) begins on the day after the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusionary periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.703(b). You have elected to analyze this rule under the PTO Exclusion Interpretation. This election resulted in a different number of credit days under this rule.	<i>Issue Date:</i> 12/19/2006 Issue Date	0	0	418	
C 12/20/2001 Notice to File Missing Parts (nonprovisional application)	3-Month Applicant Response to Notice or Action Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b). Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c). You have indicated that no 1.705(c) Showing of Due Care was made.	<i>Applicant Response:</i> 05/20/2002 Response to Notice to File Missing Parts	0	61	0	

D	<p>12/17/2002 Restriction / Election-of-Species</p>	<p><u>3-Month Applicant Response to Notice or Action</u></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i> 02/24/2003 Response to Election-of-Species / Restriction Filed</p>	0	0	0
E	<p>02/24/2003 Response to Election-of-Species / Restriction Filed</p>	<p><u>4-Month PTO Response to Applicant Reply</u></p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).</p>	<p><i>PTO Response:</i> 05/05/2003 Restriction / Election-of-Species</p>	0	0	0
F	<p>05/05/2003 Restriction / Election-of-Species</p>	<p><u>3-Month Applicant Response to Notice or Action</u></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i> 07/28/2003 Response to Election-of-Species / Restriction Filed</p>	0	0	0
G	<p>07/28/2003 Response to Election-of-Species / Restriction Filed</p>	<p><u>4-Month PTO Response to Applicant Reply</u></p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).</p>	<p><i>PTO Response:</i> 06/16/2004 Non-final Action</p>	0	0	201

<p>H</p> <p>09/23/2003 Miscellaneous PTO Action or Notice</p>	<p><u>3-Month Applicant Response to Notice or Action</u></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i> 02/23/2004 Substitute Specification Filed</p>	<p>0</p>	<p>62</p>	<p>0</p>
<p>I</p> <p>04/13/2004 Information Disclosure Statement</p>	<p><u>Supplemental Reply or Other Paper (IDS)</u></p> <p>Period of adjustment (credits) shall be reduced where applicant submits a supplemental reply or other paper, not expressly requested by the examiner, after a reply has been filed, for the period beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed. 37 CFR 1.704(c)(8).</p> <p>A paper containing only an IDS in compliance with 37 CFR 1.97 and 1.98 will not generate a reduction if accompanied by a statement that each item in the IDS was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than 30 days prior to the filing of the IDS. This 30 day period is not extendable. 37 CFR 1.704(d).</p> <p>You have indicated that no statement under 37 CFR 1.704(d) was included with this IDS.</p>	<p><i>Initial Reply:</i> 07/28/2003 Response to Election-of-Species / Restriction Filed</p>	<p>0</p>	<p>260</p>	<p>0</p>
<p>J</p> <p>06/16/2004 Non-final Action</p>	<p><u>3-Month Applicant Response to Notice or Action</u></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i> 09/13/2004 Reply after Non-final Action under 37 CFR 1.111</p>	<p>0</p>	<p>0</p>	<p>0</p>

K	09/13/2004 Reply after Non-final Action under 37 CFR 1.111	<p>4-Month PTO Response to Applicant Reply</p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).</p>	<i>PTO Response:</i> 12/16/2004 Final Rejection	0	0	0
L	12/16/2004 Final Rejection	<p>3-Month Applicant Response to Notice or Action</p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<i>Applicant Response:</i> 06/13/2005 Notice of Appeal to Board of Patent Appeal and Interferences	0	89	0
M	06/13/2005 Notice of Appeal to Board of Patent Appeal and Interferences	<p>Exclusion for Appellate Review</p> <p>3-Year PTO Issue Requirement does not include the period of appellate review by the BPAI or a Federal court, beginning on the date on which a notice of appeal to the BPAI was filed under 35 USC 134 and 37 CFR 41.31 and ending on the date of the last decision by the BPAI or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the BPAI. 35 USC 154(b)(1)(B)(ii); 37 CFR 1.702(b)(4), 1.703(b)(4).</p>	<i>Responsive Event:</i> 06/08/2006 Notice of Allowance under 35 USC 151	361	0	0
N	01/09/2006 Appeal Brief by Applicant	<p>4-Month PTO Response to Appeal Brief</p> <p>PTO must respond to an appeal taken under 35 USC 134 not later than 4 months after the date on which the appeal was taken. The period of adjustment (credits) begins on the day after the date that is 4 months after the date an appeal brief in compliance with 37 CFR 41.37 was filed and ending on the date of mailing of any of an examiner's answer under 37 CFR 41.39, an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(4).</p>	<i>PTO Response to Appeal Brief:</i> 06/08/2006 Notice of Allowance under 35 USC 151	0	0	30

O	<p>3-Month Applicant Response to Notice or Action</p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i></p> <p>09/08/2006 Issue Fee Payment under 35 USC 151</p>		
P	<p>4-Month PTO Issue of Patent</p> <p>PTO must issue a patent not later than 4 months after the date on which the issue fee was paid under 35 USC 151 and all outstanding requirements were satisfied. The period of adjustment (credits) begins on the day after the date that is 4 months after the date the issue fee was paid and all outstanding requirements were satisfied and ends on the day the patent issues. 35 USC 154(b)(1)(A)(iv); 37 CFR 1.702(a)(4), 1.703(a)(6).</p>	<p><i>Issue Date:</i></p> <p>12/19/2006 Issue Date</p>		
Total Exclusion, Debit, and Credit Days				
Overlap Days			361	649
Net Exclusion, Debit, and Credit Days			0	62
Net Patent Term Adjustment Days			361	448†
38				

The term of this patent ends on 12/08/2021 (2)

(2) Assumes payment of all maintenance fees and no intervening acts. Terminal disclaimer(s) filed in this case, if any, may reduce the term. Without adjustment, the term would end on 10/31/2021.

†Net credits were limited by 37 CFR § 1.703(f) "Actual Delay" limitation. See calculation below.

37 CFR § 1.703(f) "ACTUAL DELAY" CALCULATION			
	Credit Days During Exclusionary Periods	Credit Days During Non-Exclusionary Periods	
		Three-Year Issue Guarantee	All Other Rules
Net Credit Days	30	418	201

Maximum Credit Days under 37 CFR § 1.703(f) "Actual Delay" Limitation

448